

# ROMANIA

## Ill-treatment of minors: Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica

### Amnesty International's Concerns

Amnesty International is concerned about reports that in July 1996 police officers and public guardians in Târgu-Mure\_ ill-treated three Roma minors, Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica, who were held in custody for five days in the Centre for the Protection of Minors. They were taken to the Centre and held under guard solely on the basis of a police statement. In the course of their detention they were taken to the police station and interrogated on several occasions by police officers without the presence of a lawyer or their parents. Amnesty International is also concerned that the parents of the minors were harassed by police officers following their complaint about the ill-treatment to the Military Prosecutors and that the detained minors were not provided with adequate medical treatment for injuries suffered as a result of ill-treatment.

Amnesty International is concerned that this represents a violation of international treaty obligations ratified by Romania. These include Article 7 of the International Covenant on Civil and Political Rights (ICCPR) and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which state that no one shall be subjected to torture or to cruel, inhuman and degrading treatment or punishment. Article 13 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment obliges Romania to ensure that "the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given". Principle 24 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment requires that "a proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary".

### Ill-treatment and detention of Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica

On 7 July 1996 at around 4.40 pm, in Târgu-Mure\_ on Hunedoara Street, block number 28, police officers came to the apartment of Leon Moldovan and took into custody 17-year-old Gheorghe Notar Jr. On the third floor landing, as they left the apartment, the police officers started to beat him. One officer hit him with a truncheon on the neck making him fall down several steps. He was then taken to the police station together with 15-year-old Ioan \_tv\_s and 16-year-old Rupi Stoica, who had been apprehended earlier. On their way to the station in the police car the three youths were reportedly slapped and beaten by two police officers. When Gheorghe Notar Jr saw his parents walking in the street he was forbidden to call them or make any gestures to them from the car. At the police station, as

Gheorghe Notar Jr was climbing up the steps, he was hit again on the back, making him fall and lose consciousness for a brief period. The beating of the three youths continued intermittently as they were interrogated in the police changing room.

They were questioned about an incident that had occurred earlier that afternoon which the police considered to be an act of robbery. According to Gheorghe Notar Jr, at around 4pm, on Grivi\_a Ro\_ie Street, Ioan \_tv\_s got into a fight with another boy. While Gheorghe Notar Jr intervened to break up the fight, Rupi Stoica reportedly took this boy's watch, but returned it immediately when he saw that it did not work. Also present at the police station were the boy who alleged to have been attacked and robbed that afternoon, and an older man who claimed to be his father. The questioning lasted late into the evening. Police officers reportedly tried to force the minors to confess to various acts of theft from shops and parked cars. The officers did not inform the boys' parents about the custody<sup>1</sup> nor ensure that a lawyer was present at the interrogation<sup>2</sup>.

At around midnight the three minors were given statements to sign which they had no opportunity to read beforehand. Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica were then taken to the Centre for Protection of Minors (*Centrul de ocrotire al minorilor*). They were each given a T-shirt and a pair of shorts, their hair was cut and they were then taken to have a cold shower. Reportedly all three had visible bruises from the beating they suffered when they were taken into custody and during the interrogation. Afterwards the three boys were locked up in a room in the basement of the Centre.

That first night in the Centre was the most difficult one. Gheorghe told a representative of Amnesty International: "I could not sleep because of pain all over my body. My friends were also sore from the beating but there was no one to help us". The following morning a guard on duty hit Gheorghe Noatr Jr with a baton several times. Almost daily police officers took them to the station for further questioning. This lasted one to two hours. They were taken to different offices and asked about the crimes that they had allegedly committed but were not subjected to further ill-treatment. On the evening of 10 or 11 July, the police took the three boys to the local studio of *Antena 1*, a television station. As they were filmed, sitting silently, an announcer read their full identities and a statement about the alleged crimes that they had committed. Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica were held in the Centre for five days until they were released into the custody of their parents on 12 July 1996.

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<sup>1</sup> At around 10.30pm Gheorghe Notar's parents came to the police station to inquire about their son but were not allowed to see him.

<sup>2</sup> Under the Romanian Penal Procedure Code legal counsel is obligatory for all minors charged with a criminal offence.

Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica were charged with robbery (*tâlhară*) under Article 211 of the Penal Code for the incident which took place on 7 July. When the court received the indictment, the judge reportedly returned the case to the prosecutor for further investigation.

### **Police authority over minors who are suspected of committing a criminal offence**

On 8 July, the day after his son was taken into custody, Gheorghe Notar Sr went to the *Prefectura*, the seat of the local administration, and spoke to Vioric\_ Matei, county councillor and president of the Commission for the Protection of Minors. When she heard that police officers had ill-treated the boys she reportedly telephoned the Centre and was informed that this was not true and that the boys were well. Gheorghe Notar Sr then went to the Centre and was able to see his son in the presence of an instructor. When his son was brought into the office, Gheorghe Notar Sr lifted his T-shirt and pointed to the bruises on his body and arms. He asked to call a doctor to examine his son but this request, as well as his proposal to bring in a forensic medical expert, were rejected.

The following day Gheorghe Notar Sr called on IstvánHaller, an activist in *Liga Pro-Europa*, a local human rights organization. Together they visited police chief Rus Pop Ioan to discuss the case and to urge him to release Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica. They saw an inscription on the top of the file of the detained minors that they should be held in the Centre for 30 days.

On 10 July Gheorghe Notar Sr complained about the ill-treatment of his son to police officer Daniel Oprea, who is in charge of cases where suspected perpetrators are minors. He was reportedly told not to file a formal complaint about police ill-treatment of his son "because this might provoke more troubles".

Gheorghe Notar Sr. and IstvánHaller contacted several officials in the local administration seeking to establish who was responsible for the custody of children held in the Centre for the Protection of Minors. Invariably they were told that the police are solely responsible for minors who are held on suspicion of having committed a criminal offence.

On 12 July, following an appeal by the Mayor of Târgu-Mure\_, the county councillor Vioric\_ Matei discussed the case with police officer Daniel Oprea. At 1pm Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica were brought to the police station. One police officer<sup>3</sup> used offensive language in addressing them. When István Haller, who had come to the station together with Gheorghe Notar Sr, complained about such treatment this

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<sup>3</sup> His identity is known to Amnesty International.

officer reportedly replied, pointing to Rupi Stoica: "Look at this child. This is the face of a typical criminal." At this point IstvánHaller observed a large haematoma on the top of Gheorghe Notar's head. All three boys had bruises on their arms and legs that were three to four centimetres long and very thin. He later said: "The bruises appeared very similar, as if they resulted from beating with the same object". An hour later the three minors were released from police custody.

On 15 July, the first working day following their release, Gheorghe Notar Sr took his son and Ioan \_tv\_s to the surgery of the local forensic medical expert<sup>4</sup>, who refused to examine them. They returned the following day with a note from the prosecutor. The pshysician then reportedly told them: "What documents do you want when you are all thieves". He then issued a certificate stating that he did not establish the presence of any lesions on the two boys. Gheorghe Notar Sr then took the two minors to be treated by another doctor<sup>5</sup>.

A complaint about police ill-treatment was filed with the Military Prosecutor. In August Gheorghe Notar Jr and his mother came to the office of the prosecutor to answer questions about the complaint. They were approached in the waiting room by the two police officers who were suspected of ill-treatment. The officers reportedly told them: "We are in the right and you could have serious problems because you filed this complaint".

On 24 September 1996 Colonel Viorel Ciubot\_, Military Prosecutor of Târgu-Mure\_, and prosecutor Marian Sandu told a representative of Amnesty International that the investigation into the ill-treatment allegations was in progress. When asked about the conduct of the investigation, particularly whether they had interviewed the instructor who was on duty in the Centre when Gheorghe Notar Sr visited his son, prosecutor Sandu replied that she had not been questioned because her testimony had not been considered important. Similarly they did not question István Haller, who saw the injuries on the three minors when police officers brought them to be released, because he was not an eye-witness to the alleged police ill-treatment. However, the prosecutor agreed to question István Haller the following morning. With regard to provisions of the Penal Procedure Code that minors are entitled to obligatory legal defence and that police detention can last only 24 hours, the prosecutor stated that preliminary work carried out by the police before an investigation is initiated is not considered in Romanian law to be part of the penal procedure. According to the prosecutor the minors were not in police detention and their custody in the Centre was governed by Law number 3/1970.

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<sup>4</sup> His identity is known to Amnesty International.

<sup>5</sup> His identity is known to Amnesty International.

On 25 September 1996 an Amnesty International representative spoke to Maria R\_ceanu, educational instructor in the Centre for the Protection of Minors. She explained that the Centre shelters minors, including those suspected of perpetrating a crime. These minors are brought to the Centre by the police along with a *procesul de depistare* (a statement of inquiry). On admittance they are cleaned, deloused and instructed on hygiene. The parents, if known, would be notified by the police. The parents are allowed to visit their child only with the permission of the police. The maximum length of stay on the basis of a police statement is 30 days, but usually the minors are held in the centre for one to two weeks. The police are also authorized to take the minors for questioning outside the Centre. The Centre is not responsible for the treatment of the minors by police officers or the guards who are on duty in the Centre<sup>6</sup>. The minors are not medically examined when they are admitted and there are no medical facilities for treatment in the centre. There are no psychologists or experts in juvenile delinquency working in the Centre.<sup>7</sup>

### **Relevant Romanian Legislation**

The Constitution of Romania guarantees the universality of rights and freedoms to all citizens (Article 15). With regard to deprivation of liberty, Article 23 provides that the detention or arrest of a person “is allowed only in cases specified by law and according to the procedure specified by law”. This constitutional provision also limits the period of detention before an arrest warrant is issued to 24 hours.<sup>8</sup> The right to a defence counsel is guaranteed by Article 24. Furthermore, Article 45 states the following: “**Children and youths will enjoy special protection and assistance in realizing their rights.**”

The Romanian Penal Procedure Code ensures that legal assistance to minors is obligatory<sup>9</sup> “in the entire course of the penal procedure as well as during the trial” (Article 171, paragraphs 1 and 2). This law also guarantees obligatory legal assistance to all persons who are under arrest<sup>10</sup>.

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<sup>6</sup> Three public guardians, a service organized by the municipality, work in shifts in the Centre. They have no special training for work with minors.

<sup>7</sup> The staff consists of the Director, who has a degree in social work and theology, and two instructors, one of whom has a degree in pedagogy. The other is a social worker.

<sup>8</sup> Following this period, Article 23 further stipulates, “a person may be arrested only on the basis of a warrant issued by a magistrate for a maximum of 30 days”. The legality of the warrant can be appealed to a judge.

<sup>9</sup> A lawyer will be provided by the state if the defendant does not engage one independently.

<sup>10</sup> Persons who have been issued with a 30-day arrest warrant by the prosecutor.

Both the prosecutor investigating the complaint about the ill-treatment and the instructor of the Centre for the Protection of Minors cited Law number 3/1970 as the legal basis for the police to “shelter” minors during the preliminary investigation of a criminal offence. Law number 3/1970<sup>11</sup> is applicable, *inter alia*, to “minors who have committed an act proscribed by criminal law, or who are not criminally responsible or are prone to repeat the committed act or whose conduct can contribute to the practice of vice or immoral habits among other minors” (Article 1, letter d). The minors in this category can be subjected either to special supervision<sup>12</sup> or to “internment in a special school for re-education” (Article 8).

These measures are imposed by the commissions for the protection of minors (hereafter referred to as the commissions). The second chapter of this law establishes the competence of the commissions and procedures before them. The authority of the police is mentioned in two articles. According to Article 14, the commissions should deal with a case within a 30-day period after the case has been referred to them. They should summon to their hearings minors who are older than 10. If minors provided in Article 1, letter d, “do not show up before the commission, the assistance of the police will be requested”. When the commission examines the cases of minors provided in Article 1, letter d, “the presence of a representative of the police inspectorate is obligatory”. Article 16 (5) states the following: “Should there be opposition to the execution of a decision, a copy will be sent to the police who are charged with executing it”. The decisions of the commissions can be appealed to the court responsible for the territory in which the minor has residence.

Apparently minors who have been detained by police and placed under guard in centres for protection are not considered by Romanian judicial authorities to be “in detention or under arrest” and the provisions of the Penal Procedure Code do not apply to them until their case has been referred to the prosecutor responsible for the crime for which they are suspected.

Law number 3/1970 does not define the procedures to be followed by police officers who take minors into custody in special centres. It places no obligations on officers to inform parents or guardians of this measure, and imposes no restrictions on the police to question minors held in such custody. Nor does the law give parents or guardians the right to appeal a decision to detain a minor before an authority entrusted to protect the welfare

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<sup>11</sup> The full title of this act which was adopted on 26 March 1970 is: Law number 3/1970 Concerning the Protection Regime of Certain Categories of Minors.

<sup>12</sup> Exercised by their parents or appointed guardians.

of the minors or before the judiciary. The enforcement of Law number 3/1970 allows police to keep minors suspected of a criminal offence in custody for up to 30 days. Absurdly, this law, whose object is to provide special protection to minors, leaves them more vulnerable to arbitrary police conduct, which can even result in ill-treatment, than adults who have been deprived of their liberty. The enforcement of this law, as illustrated in the case of Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica, makes a travesty of the special provisions for minors guaranteed by the Constitution of Romania and the Penal Procedure Code.

In December 1995 a draft law to replace Law number 3/1970 was formulated by the Romanian Government. At the time of the publication of this report, the Romanian Parliament had still not discussed this draft. The proposed provisions concerning minors suspected of committing a criminal offence are similar to the law in force. Only the time period in which the commission for the protection of minors should review the case of a minor placed in custody has been changed - from 30 to 15 days.

### **Amnesty International's Recommendations**

Amnesty International urges the Romanian Government to thoroughly and impartially investigate the ill-treatment of Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica, to make public the findings and to bring to justice those responsible for human rights violations.

Amnesty International also calls on the Romanian Government to revise Law number 3/1970 and to ensure that a new law contains provisions:

- regarding police procedure for placing minors suspected of having committed a criminal offence in the custody of a centre for the protection of minors, including the obligation of the police to inform parents or guardians of such a decision;
- allowing for an effective appeal of the decision to place the minor in custody to the authority responsible for child welfare and to the judiciary;
- restricting police access to minors placed in custody in special centres to meetings conducted only in the presence of a representative of the state authority responsible for child welfare, parents or guardians and lawyers. The records of all such meetings should be kept in the centres entrusted with the custody of the minors;
- ensuring that all children who are placed in the custody of special centres are medically examined on their admission;

- ensuring that all persons working in the special centres, particularly guards, have been properly trained in human rights standards, particularly those pertaining to the rights of the child.





